

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05-cr-10199

United States of America

v.

Pascual Joseph Guerrier

CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-28

and contained in Volume(s) I are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 3/24/2006.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on May 16, 2006.

Sarah A. Thornton, Clerk of Court

By: 

Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 5/17/06.


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL, INTERP

**United States District Court
District of Massachusetts (Boston)
CRIMINAL DOCKET FOR CASE #: 1:05-cr-10199-RWZ-ALL**

Case title: USA v. Guerrier
Magistrate judge case number: 1:05-mj-00437-
RBC

Date Filed: 08/04/2005

Assigned to: Judge Rya W. Zobel

Defendant

Pascual Joseph Guerrier (1)
TERMINATED: 03/23/2006
also known as
Joseph Pascual Guerrier (1)
TERMINATED: 03/23/2006
also known as
Pascual (1)
TERMINATED: 03/23/2006

represented by **Syrie D. Fried**
Federal Defender's Office
408 Atlantic Ave.
Third Floor
Boston, MA 02210
617-223-8061
Fax: 617-223-8080
Email: syrie_fried@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender
Appointment*

Pending Counts

21:846 Conspiracy to Possess
with Intent to Distribute and to
Distribute Heroin
(1)

21:841(a) Possession of Heroin
with Intent to Distribute and
Distribution of Heroin; 18:2

Disposition

The defendant is sentenced to 37
months BOP; 36 months SR;
credit for time served; Standard
Conditions apply; drug testing;
mental health treatment; if
ordered deported, leave the US;
\$500 SA: remanded to Marshals;

The defendant is sentenced to 37
months BOP; 36 months SR;
credit for time served; Standard
Conditions apply; drug testing;

Aiding and Abetting
(2-5)

mental health treatment; if
ordered deported, leave the US;
\$500 SA: remanded to Marshals;

Highest Offense Level
(Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level
(Terminated)

None

Complaints

21:841(a)(1). 846 - knowingly and
intentionally conspired to possess
with intent to distribute heroin,
and distributed, a Schedule II
substance

Disposition

The defendant is sentenced to 37
months BOP; 36 months SR;
credit for time served; Standard
Conditions apply; drug testing;
mental health treatment; if
ordered deported, leave the US;
\$500 SA: remanded to Marshals;

Plaintiff

USA

represented by **Rachel E. Hershfang**
United States Attorney's Office
John Joseph Moakley Federal
Courthouse
1 Courthouse Way
Suite 9200
Boston, MA 02210
617-748-3100
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Email:
rachel.hershfang@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|----------|---|
| 03/28/2005 | <u>1</u> | SEALED COMPLAINT and AFFIDAVIT of Todd F. Prough, as to Pascual Joseph Guerrier (1), entered. (Received 7/8/05 for docketing) (Catino3, Theresa) [1:05-mj-00437-RBC] (Entered: 07/08/2005) |
| 03/28/2005 | <u>2</u> | MOTION to Seal as to Pascual Joseph Guerrierby USA, filed. (Catino3, Theresa) [1:05-mj-00437-RBC] (Entered: 07/08/2005) |
| 07/06/2005 | <u>3</u> | MOTION to Unseal Case as to Pascual Joseph Guerrierby USA, filed. (Catino3, Theresa) [1:05-mj-00437-RBC] (Entered: 07/08/2005) |
| 07/06/2005 | | Judge Judith G. Dein : Electronic ORDER entered granting <u>3</u> Motion to Unseal Case as to Pascual Joseph Guerrier (1) (Catino3, Theresa) [1:05-mj-00437-RBC] (Entered: 07/08/2005) |
| 07/06/2005 | | Electronic Clerk's Notes for proceedings held before Judge Judith G. Dein :Initial Appearance as to Pascual Joseph Guerrier held on 7/6/2005; Interpreter Hadad; AUSA Hershfang and Federal Defender Fried; USMJ Dein informs the dft. of his rights and charges; Dft submits cja 23 form and requests counsel; USMJ Dein appoints Federal Defender; Govt. moves for detention and continunce; PC and detention hearing is set for 7/11/05 @ 3:30 pm. before USMJ Collings. (Court Reporter D.R.) (Quinn, Thomas) [1:05-mj-00437-RBC] (Entered: 07/11/2005) |
| 07/11/2005 | <u>4</u> | MOTION to Continue <i>Detention Hearing</i> as to Pascual Joseph Guerrier. (Fried, Syrie) [1:05-mj-00437-RBC] (Entered: 07/11/2005) |
| 07/13/2005 | | Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Hearing as to Pascual Joseph Guerrier held on 7/13/2005. R. Hershfang for Gov't, S. Fried for Deft, Pretrial Services. Spanish Interp. Sworn. Counsel indicates that in light of morning interview with Pretrial they would like a continuance. Court sets Preliminary Examination / Detention Hearing for July 19, 2005 @ 2:15 P.M. (Digital Recording.) (Russo, Noreen). [1:05-mj-00437-RBC] (Entered: 07/14/2005) |
| 07/14/2005 | | Judge Robert B. Collings : Electronic ORDER entered granting <u>4</u> Motion to Continue as to Pascual Joseph Guerrier |

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| | | (1). "ALLOWED nunc pro tunc" (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/14/2005) |
| 07/21/2005 | <u>6</u> | MOTION to Continue <i>Detention Hearing</i> as to Pascual Joseph Guerrier. (Fried, Syrie) [1:05-mj-00437-RBC] (Entered: 07/21/2005) |
| 07/21/2005 | | Judge Robert B. Collings : Electronic ORDER entered granting <u>6</u> Motion to Continue as to Pascual Joseph Guerrier (1). "ALLOWED to 7/22/2005 @ 2:30 P.M." (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/21/2005) |
| 07/22/2005 | | Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Detention Hearing as to Pascual Joseph Guerrier held on 7/22/2005, Preliminary Examination as to Pascual Joseph Guerrier waived on 7/22/2005. R. Hershfang for Gov't. S. Fried for Def't. Pretrial Services. Spanish Interp. Sworn. Def't waives the preliminary examination. As to detention, Gov't is willing to allow release to halfway house. Court questions flight risk and is not willing to say upfront that the def't is to be released to halfway house. Court indicates that it is willing to consider Coolidge house after Court is informed as to Coolidge house's reaction to Def'ts application for admittance. Def't wishes to pursue that option re Coolidge house. Court to issue an Order and will forward to Pretrial. If Coolidge house option does not work Court will schedual a Detention Hearing. (Digital Recording.) (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/22/2005) |
| 07/22/2005 | <u>7</u> | Judge Robert B. Collings : ORDER entered. PROCEDURAL ORDER as to Pascual Joseph Guerrier (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/22/2005) |
| 07/22/2005 | <u>8</u> | WAIVER of Preliminary Examination or Hearing by Pascual Joseph Guerrier (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/25/2005) |
| 07/26/2005 | <u>9</u> | Judge Robert B. Collings : ORDER entered. ORDER SETTING DETENTION HEARING ON THE COURT'S OWN MOTION as to Pascual Joseph Guerrier (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/26/2005) |
| 07/26/2005 | <u>10</u> | Assented to MOTION to Continue <i>Detention Hearing</i> as to Pascual Joseph Guerrierby USA. (Hershfang, Rachel) [1:05-mj-00437-RBC] (Entered: 07/26/2005) |
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| 07/27/2005 | | Judge Robert B. Collings : Electronic ORDER entered granting <u>10</u> Motion to Continue as to Pascual Joseph Guerrier (1). "ALLOWED to 8/1/2005 @ 3:15 P.M." (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 07/28/2005) |
| 07/29/2005 | ●11 | MOTION to Continue <i>Detention Hearing</i> as to Pascual Joseph Guerrier. (Fried, Syrie) [1:05-mj-00437-RBC] (Entered: 07/29/2005) |
| 08/01/2005 | ● | Judge Robert B. Collings : Electronic ORDER entered granting <u>11</u> Motion to Continue as to Pascual Joseph Guerrier (1). "ALLOWED to 8/3/2005 @ 11:45 A.M." (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 08/01/2005) |
| 08/03/2005 | ● | Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Detention Hearing as to Pascual Joseph Guerrier held on 8/3/2005. R. Hershsfang for Gov't, S. Fried for Def't, Pretrial Services. Spanish Interp. Sworn. Witness One: Special Agent Todd Prough for Gov't. Direct, Cross, ReDirect Examination(s). No further evidence from Gov't and Gov't asks Court to take Judicial Notice of Pretrial Services Report. Def't indicates that it does not object to par. 1-4 of the PTS Report. Def't has no evidence or proffer. Court finds that there are no conditions or combination of conditions that will assure Def'ts apperance. Court orders def't detained. (Digital Recording.) (Russo, Noreen). [1:05-mj-00437-RBC] (Entered: 08/03/2005) |
| 08/03/2005 | ●12 | EXHIBIT/WITNESS LIST as to 8/3/2005 Detention Hearing as to Pascual Joseph Guerrier. (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 08/03/2005) |
| 08/03/2005 | ●13 | Judge Robert B. Collings : ORDER entered. MEMORANDUM AND ORDER OF DETENTION PURSUANT TO 18 U.S.C. s. 3142(e) as to Pascual Joseph Guerrier (Russo, Noreen) [1:05-mj-00437-RBC] (Entered: 08/03/2005) |
| 08/04/2005 | ●14 | INDICTMENT as to Pascual Joseph Guerrier (1) count(s) 1, 2-5. (Gawlik, Cathy) (Entered: 08/05/2005) |
| 08/04/2005 | ●15 | Judge Rya W. Zobel : ORDER entered. ORDER REFERRING CASE to Magistrate Judge Robert B. Collings Reason for referral: pretrial proceedings as to Pascual Joseph Guerrier (Gawlik, Cathy) (Entered: 08/05/2005) |
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| 08/11/2005 | | ELECTRONIC NOTICE OF HEARING as to Pascual Joseph Guerrier Arraignment set for 8/16/2005 @ 10:45 AM in Courtroom 23 before Magistrate Judge Robert B. Collings. (Russo, Noreen). (Entered: 08/11/2005) |
| 08/16/2005 | ● | Electronic Clerk's Notes for proceedings held before Judge Robert B. Collings :Arraignment as to Pascual Joseph Guerrier (1) Count 1,2-5 held on 8/16/2005, Plea entered: Not Guilty as to Courts 1, 2-5. N. Gallagher for Gov't, M. Richie for Def't, Pretrial Services, Spanish Interp. Sworn. Initial Status Conf. set for September 26, 2005 @ 11:00 A.M. (Digital Recording.) (Russo, Noreen) (Entered: 08/16/2005) |
| 08/16/2005 | ● 16 | Judge Robert B. Collings : ORDER entered. MEMORANDUM AND ORDER as to Pascual Joseph Guerrier. Initial Status Conference on September 26, 2005 @ 11:00 A.M. (Russo, Noreen) (Entered: 08/16/2005) |
| 09/13/2005 | ● 17 | Letter (non-motion) regarding automatic discovery as to Pascual Joseph Guerrier (Johnson, Jay) (Entered: 09/14/2005) |
| 09/26/2005 | ● | ElectronicClerk's Notes for proceedings held before Judge Robert B. Collings:Initial Status Conference as to Pascual Joseph Guerrier held on 9/26/2005. R. Hershfang for Gov't, S. Fried for Def't. Def't requests relief from 116.3 time requirements, Court sets date of October 14, 2005. Due to Ms. Hershfang's vacation she indicates she will not be able to respond timely. Court sets date of Friday October 27, 2005 for Gov't to file response, if any. Def't requests experts reports. Court sets 45 days before trial for expert reports to be filed by Gov't, 21 days for def't. Gov't does not owe any discovery other than that due 21 days before trial, Def't is not sure if any discovery is owed. Def't does not know if she is going to file non-discovery motions. Court sets down October 24, 2005 as the date non-discovery motions are due; trial or plea is unknown, but would last 4 days if matter went to trial. Final Status Conf. set for Wednesday November 2, 2005 @ 3:45 P.M. (Digital Recording) (Russo, Noreen). (Entered: 09/26/2005) |
| 09/26/2005 | ● 18 | Judge Robert B. Collings : ORDER entered. REPORT AFTER INITIAL STATUS CONFERENCE PURSUANT TO LOCAL RULE 116.5(A) as to Pascual Joseph Guerrier (Russo, Noreen) (Entered: 10/10/2005) |
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| 09/26/2005 | 19 | Judge Robert B. Collings : ORDER entered. ORDER FOR FINAL STATUS CONFERENCE (L.R. 116.5(C)) as to Pascual Joseph Guerrier (Russo, Noreen) (Entered: 10/10/2005) |
| 09/26/2005 | 20 | Judge Robert B. Collings : ORDER entered. ORDER OF EXCLUDABLE DELAY as to Pascual Joseph Guerrier. Time excluded from 8/4/2005 until 8/4/2005. Time excluded from 8/16/2005 until 8/16/2005. Time excluded from 8/17/2005 until 9/13/2005. Time excluded from 9/26/2005 until 9/26/2005. Time excluded from 9/27/2005 until 10/24/2005. Thus, as of October 24, 2005, TWENTY-THREE (23) non-excludable days will have occurred leaving FORTY-SEVEN (47) days left to commence trial to be within the seventy day period for trial set by statute. (Russo, Noreen) (Entered: 10/10/2005) |
| 10/25/2005 | 21 | MOTION for Extension of Time to November 18, 2005 to File Pretrial Motions as to Pascual Joseph Guerrier. (Fried, Syrie) (Entered: 10/25/2005) |
| 10/27/2005 | | Judge Robert B. Collings: ElectronicORDER entered denying without prejudice 21 Motion for Extension of Time to File as to Pascual Joseph Guerrier (1) for failure to comply with L.R. 7.1(A)(2). (Entered: 10/27/2005) |
| 11/01/2005 | 22 | MOTION for Extension of Time to November 18, 2005 to File <i>Substantive Pretrial Motions</i> as to Pascual Joseph Guerrier. (Fried, Syrie) (Entered: 11/01/2005) |
| 11/02/2005 | | ElectronicClerk's Notes for proceedings held before Judge Robert B. Collings:Final Status Conference as to Pascual Joseph Guerrier held on 11/2/2005. R. Hershfang for Gov't, S. Fried for Def't. Def't requests to November 18, 2005 for substantive motions. Court indicates that it will refer those motions to District Court Judge. Counsel indicate no outstanding discovery motions, no discovery outstanding, def't is not going to raise defense of insanity of public authority, Gov't is not going to raise alibi. There is a possiblity of plea, if trial it will last one week. Court to send case back to District Court Judge. Court to issue further order of excludable delay. (Digital Recording) (Russo, Noreen) (Entered: 11/02/2005) |
| 11/02/2005 | 23 | Judge Robert B. Collings : ORDER entered. ORDER OF EXCLUDABLE DELAY as to Pascual Joseph Guerrier. Time |

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| | | excluded from 10/25/2005 until 10/27/2005. Thus, as of October 31, 2005, TWENTY-SEVEN (27) non-excludable days have occurred leaving FORTY-THREE (43) days left to commence trial so as to be within the seventy-day period for trial set by statute. (Russo, Noreen) (Entered: 11/03/2005) |
| 11/02/2005 | <u>24</u> | Judge Robert B. Collings : ORDER entered. ORDER AFTER FINAL STATUS CONFERENCE PURSUANT TO LOCAL RULE 116.5(C) as to Pascual Joseph Guerrier. (Russo, Noreen) (Entered: 11/03/2005) |
| 11/02/2005 | ● | Case as to Pascual Joseph Guerrier no longer referred to Magistrate Judge Robert B. Collings. (Russo, Noreen) (Entered: 11/03/2005) |
| 11/04/2005 | ● | NOTICE OF HEARING as to Pascual Joseph Guerrier Pretrial Conference set for 11/17/2005 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. Defendant to let court know if this is going to be a plea.(Urso, Lisa) (Entered: 11/04/2005) |
| 11/17/2005 | ● | ElectronicClerk's Notes for proceedings held before Judge Rya W. Zobel :Pretrial Conference as to Pascual Joseph Guerrier held on 11/17/2005 Change of Plea Hearing set for 12/14/2005 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 11/18/2005) |
| 12/14/2005 | ● | ElectronicClerk's Notes for proceedings held before Judge Rya W. Zobel :Change of Plea Hearing as to Pascual Joseph Guerrier held on 12/14/2005, Plea entered by Pascual Joseph Guerrier (1) Guilty Count 1,2-5. Sentencing set for 3/9/2006 02:00 PM in Courtroom 12 before Judge Rya W. Zobel. Interpreter and defendant sworn; (Court Reporter Catherine Handel.) (Urso, Lisa) (Entered: 12/15/2005) |
| 12/15/2005 | <u>25</u> | Judge Rya W. Zobel : ORDER entered. PROCEDURAL ORDER re sentencing hearing as to Pascual Joseph Guerrier Sentencing set for 3/9/2006 02:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 12/15/2005) |
| 03/07/2006 | <u>26</u> | SENTENCING MEMORANDUM by Pascual Joseph Guerrier (Fried, Syrie) (Entered: 03/07/2006) |
| 03/09/2006 | ● | ElectronicClerk's Notes for proceedings held before Judge Rya W. Zobel :Sentencing held on 3/9/2006 for Pascual Joseph Guerrier (1), 1, 2-5, The defendant is sentenced to 37 months BOP; 36 months SR; credit for time served; Standard |

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| | | Conditions apply; drug testing; mental health treatment; if ordered deported, leave the US; \$500 SA: remanded to Marshals;. (Court Reporter Catherine Handel.) (Urso, Lisa) (Entered: 03/17/2006) |
| 03/23/2006 | <u>27</u> | Judge Rya W. Zobel : ORDER entered. JUDGMENT as to Pascual Joseph Guerrier (1), The defendant is sentenced to 37 months BOP; 36 months SR; credit for time served; Standard Conditions apply; drug testing; mental health treatment; if ordered deported, leave the US; \$500 SA: remanded to Marshals;; Count(s) 1, 2-5, The defendant is sentenced to 37 months BOP; 36 months SR; credit for time served; Standard Conditions apply; drug testing; mental health treatment; if ordered deported, leave the US; \$500 SA: remanded to Marshals; (Urso, Lisa) (Entered: 03/24/2006) |
| 03/24/2006 | <u>28</u> | NOTICE OF APPEAL by Pascual Joseph Guerrier Filing fee \$ 255. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 4/13/2006. (Fried, Syrie) (Entered: 03/24/2006) |